REMARKS:

This paper is herewith filed in response to the Examiner's Office Action mailed on May 30, 2007 for the above-captioned U.S. Patent Application. This office action is a rejection of claims 1-23 of the application.

More specifically, the Examiner has rejected claim 22 under 35 USC 101 as being directed to software descriptive material per se; rejected claims 12, 15, and 22 under 35 USC 112, first paragraph, for overbreadth by reciting a single means element; rejected claims 1 and 8 under 35 USC 102(b) as being anticipated by Forssell (EP1006695); rejected claim 2 under 35 USC 103(a) as being obvious over Forssell in view of Cromer (US2003/0186703); rejected claim 3 under 35 USC 103(a) as being obvious over Forssell in view of Upp (US2004/0002351); rejected claims 4-5 under 35 USC 103(a) as being obvious over Forssell in view of Cromer and in further view of Lechleider (US6,058,109) and Rinchiuso (US2004/0196861); rejected claim 6 under 35 USC 103(a) as being obvious over Forssell in view of Cromer, Lechleider, Rinchiuso and in further view of Schieder (EP1139613); rejected claim 7 under 35 USC 103(a) as being obvious over Forssell in view of Kajizaki (US2001/0055317); rejected claims 9 and 16 under 35 USC 103 as containing the limitations of claims 1, 2, and 6; rejected claims 10 and 20 under 35 USC 103(a) as containing the limitations of claim 4; rejected claims 11, 12, 17, under 35 USC 103(a) as obvious over Forssell in view of Scheider; rejected claim 14 under 35 USC 103(a) as containing the limitations of claims 7 and 12; rejected claim 15 under 35 USC 103(a) as applied to claims 1 and 2; rejected claims 19 and 23 under 35 USC 103(a) as being obvious in view of Forssell; rejected claim 21 under 35 USC 103(a) as containing the limitations of claim 5; and rejected claim 22 under 35 USC 103(a) as containing the limitations of claim 2.

Claims 1, 2, 5, 8-16, and 20-22 have been amended for clarification. Claim 23 has been cancelled. No new matter is added.

Regarding the 35 USC 101 rejection of claim 22 the Applicants have amended the claim to recite in part "A data storage medium encoded with software readable by a data processing device…".

Support for the amendment can be found at least on page 9, lines 27-29 and canceled claim 23. The rejection under 35 USC 101 is now seen as overcome.

Regarding the rejections of claims 12, 15, and 22 under 35 USC 112, first paragraph, the claims have been amended to overcome the rejections in that they no longer recite a 'means' element, and so the rejections under 35 USC 112 are overcome.

Regarding the rejection of claim 1 under 35 USC 102(b), the Applicants respectfully traverse the rejection.

The Applicants note that independent claims 1, 12, and 15 have been amended for clarification. Support for the amendments can be found at least on page 5, line 31 to page 6, line 20.

Claim 1 is rejected over Forssell, and is herein amended to recite: "keeping up the dedicated channel by sending post-speech packets". The office action concedes that Forssell does not disclose sending post-speech packets (pages 6, 9 12 and 13 of the office action). Claims 1 and 8 are therefore novel over Forssell.

Neither are these claims obvious over Forssell, which relates to **prolonging an existing connection of a transmitting party** over a silent period in a delay sensitive communication system. As cited, Forssell discloses:

> "Preferably, the network is informed at the end of an active period, on whether a passive period follows the active period or if the connection can be released," (par. [0042], lines 40-41), and

> "Alternatively, a separate signalling message can be used. With this information it is possible to keep the created temporary block flow available even when there is no data to be transmitted," [thus] **"When an active period starts after a passive period, the connection starts using the created TBF <u>again</u>, and possible other users** of the packet data channel may be assigned to other channels," (emphasis added), (par. [0042], lines 44-47).

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The Applicants contend that Forssell is concerned with how resources for a transmitting party (a speaking party) can be guaranteed during and after a passive period. Forssell does not appear to speak out on what happens after a TBF release because Forssell does not appear to be interested in solving a problem of how a receiving party (a listening party) could get resources if it needs to change its role to a transmitting party. The Applicants contend that Forssell is mainly concerned with the existing connection of the transmitting party. Forssell is fully concentrated on an existing connection of the transmitting party, so Forssell does not teach or suggest establishing a new uplink.

Firstly, as discussed above Forssell relates to prolonging an existing transmitting connection of a transmitting party over a passive (or silent) period in a delay sensitive communication system, (par. [0042]. In Forssell "the network is informed at the end of an active period, on whether a passive period follows the active period or if the connection can be released," (par. [0042]). In Forssell the transmitting party may inform the receiving party by depicted parameters that some unsent data is still in the transmitter queue. Forssell discloses in the alternative "The network may use a timer function for determining whether a passive period follows the active period or if the connection can be released," (par. [0043]). Thus, there exists in the Forssell transmission system (i.e. at least the transmitting party) always information about how long a present (passive) period actually is.

As illustrated in Fig. 5, Forssell discloses:

> "If in step 502 the RLC block is not the last one of the TBF, the mobile station checks in step 510, whether the RLC block **is the last one in the buffer**. If it is, **the mobile station sets the parameters CV'=0 and TR=0** in step 512 and transmits the block. This means that the data flow starts a passive period, **but the TBF is not released**," (emphasis added), (par. [0068]).

However, the Applicants note that the TBF is always released if there are no new packets in the transmitter queue waiting to be sent. Forssell discloses "the network checks whether the RLC block to be transmitted **is the last one in a data block** of the TBF [and] **If it is, the mobile station sets the parameter Final Block Indicator FBI=1**," (emphasis added), (par. [0073]).

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Further, Forssell discloses that "If the parameter FBI=1, the downlink TBF release procedure is initiated, step 810," (par. [0076]). These are specific commands to release the TBF.

The Applicants contend that a person skilled in the art would not be motivated to modify Forssell to suggest or disclose the claims for at least the reason that the problems solved in Forssell relate to reserving an existing connection during silent or passive periods. Whereas, in claim 1 there is "keeping up the dedicated channel by **sending post-speech packets for a time of such duration that a new uplink can be established, utilizing the at least one downlink,** from at least one terminal connected to said downlink" as claim 1 recites in part.

Further, the Applicants contend that to modify Forssell such that it would send post-speech packets for a time that a new uplink can be established would clearly conflict with or eliminate the need for the CV, TR, and/or FBI parameters of the MAC header received from the mobile device. Replacing any of those parameters is seen to render Forssell inoperative. For at least the reasons already stated the Applicants contend that such a modification would require an extensive redesign and if attempted would clearly change the principle operation of Forssell.

MPEP 2143.01 states:

> THE PROPOSED MODIFICATION CANNOT CHANGE THE PRINCIPLE OF OPERATION OF A REFERENCE
> If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti,* 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Regarding the rejection of claim 2 the Examiner states:

> "Forssell does not teach "server sends at least one post-speech packet downlink to the receiving terminals". However, in the same field of endeavor, Cromer teaches in paragraph [0010], of a "client device" connected "on a wireless local area network (WLAN)", wherein the client device can receive a type of incoming packet called a ""ping" packet for maintaining a connection between the client device and the WLAN", where a "ping" packet originates from the WLAN, different from a data packet, which can originate from another user (substantively the same as "a step in which the server sends at least one post-speech packet downlink to the receiving terminals" in the instant invention)."

Cromer relates to "A method and system for conserving battery strength of a client device, such as a laptop computer, on a wireless local area network (WLAN)," (abstract).

Cromer discloses:

> "When the series of packets transmitted in the burst, preferably representing a large datafile, are all received, **an idle state is detected by the client device indicating that no further data packets are being transmitted. The client device then returns to the lowest bandwidth setting to conserve battery power while transceiving subsequent ping packets** and monitoring for new data packets addressed to the client device," (col. 5, lines 50-57).

The Applicants contend that Cromer merely discloses a client device responding to ping packets sent to it while in a low power state. In Cromer, the client device is responding to or "transceiving subsequent ping packets." Clearly, "transceiving subsequent ping packets" is indicative of transmitting a reply. Whereas, in claim 1 from which claim 2 depends, recites in part "keeping up the dedicated channel by **sending post-speech packets for a time of such duration** that **a new uplink can be established, utilizing the at least one downlink**, from at least one terminal connected to said downlink" as claim 1 recites in part. The Applicants contend that for at least the reason that a "ping" in Cromer requiring a response or echo reply does not suggest a post-speech packet sent **for a duration** that a new uplink **can be** established. The Applicant notes that such a combination of Forssell and Cromer, although the Applicants do not

agree the combination is feasible, would appear to **not reduce** the time required by TBF setup procedures as intended in Forssell (par. [0013]). Clearly, Cromer can not be seen to suggest a post-speech packet as in the claims. Cromer's ping packets are sent to the client device in a low power state, which is incompatible with Fossell's active TBF. Regardless, Cromer's ping packets are not sent to keep up a dedicated channel, and neither are they sent for a duration that a new uplink can be established.

Further, in the rejection of claims 6, 12, and 17 the Examiner refers to Schieder as combinable with Forssell to overcome the admitted failure of Forssell to disclose "a post-speech packet." The Applicants respectfully disagree with the Examiner.

As cited by the Examiner for all claims 6, 12, and 17 Schieder discloses:

> "In this case the network side will first transmit a so-called packet uplink acknowledgement indicator ST5a2 incorporating a final acknowledgement indicator = 1 to the subscriber terminal side. **The message in step ST5a2 is to indicate to the subscriber terminal side that the network side has understood that no further data packets are residing in the subscriber terminal side transmitter queue** and that **an uplink TBF release procedure can be started,**" (emphasis added), (par. [0035]).

The Applicants contend that Schieder relates to confirming with the transmitting subscriber unit that no data packets are remaining in the subscriber terminal transmitter queue before releasing the physical connection of the terminal. The Applicants contend that Schieder appears to monitor packet arrival time so as to determine the state of the transmitter queue and determine whether to start the TBF release procedure, (pars. [0074]-[0075]). The Applicants contend that Schieder is not concerned with "**keeping up the dedicated channel by sending post-speech packets for a time of such duration** that **a new uplink can be established, utilizing the at least one downlink**" as claim 1 recites in part.

In addition, although the Applicants do not agree that the combination of Forssell and the references cited is feasible or possible, the Applicants contend that for at least the reasons stated
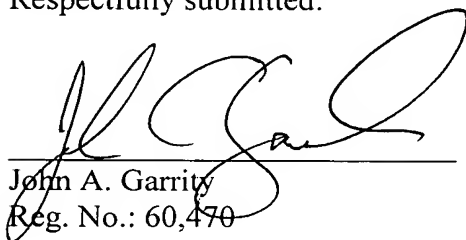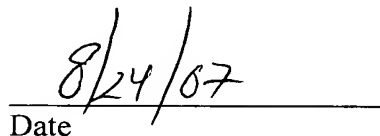
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such a combination would still not disclose or suggest the claims. As stated above, this is at least because any combination of the references cited at least would still not disclose or suggest "keeping up the dedicated channel by **sending post-speech packets for a time of such duration that a new uplink can be established, utilizing the at least one downlink,** from at least one terminal connected to said downlink" as claim 1 recites in part.

Independent claims 8, 12, 15, and 22 distinguish over Forssell alone or in combination with the other cited references for the same reasons detailed above with respect to claim 1. All other claims depend from one of those independent claims and so all claims are seen to be allowable over the cited art.

Based on the above explanations and arguments, it is clear that the references cited cannot be seen to disclose or suggest claims 1-22. The Examiner is respectfully requested to reconsider and remove the rejections of claims 1-22 and to allow all of the pending claims 1-22 as now presented for examination. Should any unresolved issue remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

Respectfully submitted:

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